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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/717,034	11/18/2003	Masayoshi Nanami	FY.F5642US2C	7337
20995	7590	06/06/2005	EXAMINER	
KNOBBE MARTENS OLSON & BEAR LLP			VASUDEVA, AJAY	
2040 MAIN STREET			ART UNIT	
FOURTEENTH FLOOR			PAPER NUMBER	
IRVINE, CA 92614			3617	

DATE MAILED: 06/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/717,034

Applicant(s)

NANAMI ET AL.

Examiner

Ajay Vasudeva

Art Unit

3617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 25-28 and 30-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 25, 26 and 30-32 is/are allowed.
- 6) ☒ Claim(s) 27 and 28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All. b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☒ Certified copies of the priority documents have been received in Application No. 09/596,786.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

New Grounds of Rejection

1. This Office Action includes a rejection based on new grounds, and is therefore made Non-Final.

Claim Objections

2. Claims 27 and 28 are objected to because of the following informalities:
 - The underlining provided to indicate amended text in claims 27 and 28 is improper, and therefore not in compliance with the "Revised Amendment Practice", as set forth in 37 CFR 1.121.Appropriate correction is required.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
 4. Claims 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsunamoto et al. (US 4,871,996 A) in view of Nitta et al. (US 5,846,102 A).
- Tsunamoto et al. shows a sensor [42] configured to detect a tilting motion of the watercraft (col. 3, lines 39-50), and emitting a signal if the hull has tilted beyond a predetermined angle when overturned. A warning device is activated if signal is emitted for at least a predetermined time (col. 3, line 49). An additional warning signal is provided by a discharge of water spray by the activation of a pump [64] (col. 4, lines 40-41; fig. 10). Since the

Art Unit: 3617

pump is positioned in the bilge portion of the watercraft, such is considered to be the bilge pump.

Tsunamoto et al. shows all features except the disabling of the engine when the watercraft is overturned.

Nitta et al. shows a watercraft that disables the engine when the watercraft is overturned (col. 14, lines 58-60; and figures 4b and 4c).

It would have been obvious for one skilled in the art at the time of the invention to modify the watercraft of Tsunamoto et al., as taught by Nitta et al., so that the engine was disabled upon an overturning of the watercraft, together with the activation of the warning device. Such modification would have protected a rider from injury from other boats in the vicinity, as well as from the overturned boat. Further, disabling of the engine would have helped conserve fuel until the operator was ready to straighten up the watercraft for use again.

Examiner's Observation #1: It is noted that the claims, as currently phrased, do not specifically recite an engine disablement "as a result of", or "only if", the sensor has emitted a signal for a predetermined time.

In this case, the limitation "if the sensor has generated a signal" (emphasis provided) has been broadly interpreted in the context of "whether the sensor has, or has not, generated a signal".

Consider the scenario when the watercraft of Tsunamoto et al., as modified by Nitta et al., overturns. The modified watercraft of Tsunamoto et al. would immediately disable the

Art Unit: 3617

engine, whether or not the sensor emits any signal -- for a predetermined time or otherwise. However, in the event the sensor is triggered to emit a signal for a predetermined time as a *result of an overturning*, the engine disabling would occur due to the overturning but regardless of the signal from the sensor. Such a condition therefore meets the requirement "disabling combustion in the cylinder if the sensor has emitted the signal for at least the predetermined time".

Further, re claim 28 (lines 13-15), during the operation of the modified watercraft that did not yet overturn, the combustion in the cylinder would have obviously continued. In such case, it would be obvious that the sensor did not emitted any signal, continuous or otherwise.

The Examiner recommends amending the limitation "if" to "**as a result of**" for a favorable consideration of the claims by the Examiner.

Examiner's Observation #2: It is further noted that the limitations such as "determining if" or "disabling combustion", as currently phrased, are not specific as to whether it is the ECU that is undertaking such determining or disabling steps, or if such determining or disabling steps are the discretionary actions of the watercraft operator.

Allowable Subject Matter

5. Claims 25, 26 and 30-32 are allowed.

Response to Arguments

6. Applicant's arguments with respect to claims 27 and 28 have been considered but are moot in view of the new ground(s) of rejection.

Art Unit: 3617

Conclusion

7. The prior art made of record in the attached PTO Form 892, but not yet relied upon, is considered pertinent to applicant's disclosure.


8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ajay Vasudeva whose telephone number is (571) 272-6689. The examiner can normally be reached on Monday-Friday 12:00 -- 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Joe Morano can be reached on (571) 272-6684. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ajay Vasudeva
Examiner
Art Unit 3617

AV


AJAY VASUDEVA
PATENT EXAMINER
5/18/05